

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 470 & 429

96TH GENERAL ASSEMBLY

Reported from the Committee on General Laws, May 5, 2011, with recommendation that the Senate Committee Substitute do pass.

0869S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 67.641 and 143.183, RSMo, and to enact in lieu thereof two new sections relating to the nonresident entertainers tax.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 67.641 and 143.183, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 67.641 and 143.183, to
3 read as follows:

67.641. 1. The general assembly may annually appropriate up to three
2 million dollars from the state general revenue fund to each convention and sports
3 complex fund created pursuant to section 67.639, provided that for an existing
4 sports facility located in a first class county with a charter form of government
5 which contains part of a city having a population of three hundred fifty thousand
6 inhabitants or more or any city with a population greater than three hundred
7 fifty thousand, located in more than one county, such county or city has entered
8 into a contract or lease with a professional sports team affiliated with or
9 franchised by the National Football League, the National Basketball Association,
10 the National Hockey League, or the American League or the National League of
11 Major League Baseball. No moneys shall be transferred pursuant to this section
12 to the benefit of a sports complex for a county in any year unless each
13 professional sports team which leases playing facilities within the county
14 continue to lease the same playing facilities which were leased on August 28,
15 1989. Each convention and sports complex fund shall be administered by the
16 county or city and used to carry out the provisions of sections 67.638 to 67.645.

17 2. Each city or county which has a convention and sports complex fund

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 established pursuant to the laws of this state which administers a convention and
19 sports complex fund, prior to receipt of any appropriations pursuant to this
20 section shall enact or promulgate ordinances, or rules and regulations which
21 provide, pursuant to the terms and provisions of section 70.859, for the purchase
22 of goods and services and for construction of capital improvements for the sports
23 complex. In no event shall more than three million dollars be transferred from
24 the state to any one such convention and sports complex fund in any fiscal year
25 pursuant to this section, and in no event shall any moneys be transferred from
26 the state to any convention and sports complex fund for the planning,
27 development, construction, maintenance or operation of any facility after June 30,
28 1999. Only one such transfer of state funds shall be made to any convention and
29 sports complex fund after June 30, 1997, provided that any convention and sports
30 complex fund which was appropriated state moneys prior to July 1, 1997, for the
31 construction, maintenance or operation of a facility shall continue to receive state
32 moneys, subject to appropriation.

33 3. This section shall not become effective unless and until the applicable
34 county or the applicable city which has created a convention and sports complex
35 fund has commenced paying into the convention and sports complex fund amounts
36 at a rate sufficient for the county or city to contribute the sum of three million
37 dollars per calendar year, except that this section shall become effective with
38 respect to any first class county not having a charter form of government on
39 August 28, 1989, and with respect to any charter city located in a first class
40 county not having a charter form of government at the time at which such county
41 or city has commenced paying any moneys into its convention and sports complex
42 fund. The appropriations made pursuant to subsection 1 of this section to any
43 convention and sports complex fund shall not exceed the amounts contributed by
44 the county or city to the fund. The county or city's proportional amount specified
45 in this section may come from any source. Once the county or city has
46 commenced paying such appropriate proportional amounts into its convention and
47 sports complex fund, the county or city shall so notify the state treasurer and the
48 director of revenue and, thereafter, subject to annual appropriation, transfers
49 shall commence and continue each month pursuant to this section [until such
50 monthly transfers are made for thirty years] **for so long as the contract or**
51 **lease referred to in subsection 1 of this section is in effect.** Moneys
52 appropriated from general revenue shall not be expended until such first class
53 charter county or a city located in such first class charter county has paid three

54 million dollars into its fund, or until such first class county not having a charter
55 form of government or until such charter city within a first class county not
56 having a charter form of government has commenced payment of moneys into its
57 fund.

143.183. 1. As used in this section, the following terms mean:

2 (1) "Nonresident entertainer", a person residing or registered as a
3 corporation outside this state who, for compensation, performs any vocal,
4 instrumental, musical, comedy, dramatic, dance or other performance in this state
5 before a live audience and any other person traveling with and performing
6 services on behalf of a nonresident entertainer, including a nonresident
7 entertainer who is paid compensation for providing entertainment as an
8 independent contractor, a partnership that is paid compensation for
9 entertainment provided by nonresident entertainers, a corporation that is paid
10 compensation for entertainment provided by nonresident entertainers, or any
11 other entity that is paid compensation for entertainment provided by nonresident
12 entertainers;

13 (2) "Nonresident member of a professional athletic team", a professional
14 athletic team member who resides outside this state, including any active player,
15 any player on the disabled list if such player is in uniform on the day of the game
16 at the site of the game, and any other person traveling with and performing
17 services on behalf of a professional athletic team;

18 (3) "Personal service income" includes exhibition and regular season
19 salaries and wages, guaranteed payments, strike benefits, deferred payments,
20 severance pay, bonuses, and any other type of compensation paid to the
21 nonresident entertainer or nonresident member of a professional athletic team,
22 but does not include prizes, bonuses or incentive money received from competition
23 in a livestock, equine or rodeo performance, exhibition or show;

24 (4) "Professional athletic team" includes, but is not limited to, any
25 professional baseball, basketball, football, soccer and hockey team.

26 2. Any person, venue, or entity who pays compensation to a nonresident
27 entertainer shall deduct and withhold from such compensation as a prepayment
28 of tax an amount equal to two percent of the total compensation if the amount of
29 compensation is in excess of three hundred dollars paid to the nonresident
30 entertainer. **For purposes of this section, the term "person, venue, or**
31 **entity who pays compensation" shall not be construed to include any**
32 **person, venue, or entity that is exempt from taxation under 26 U.S.C.**

33 **Section 501(c)(3), as amended, and that pays an amount to the**
34 **nonresident entertainer for the entertainer's appearance but receives**
35 **no benefit from the entertainer's appearance other than the**
36 **entertainer's performance.**

37 3. Any person, venue, or entity required to deduct and withhold tax
38 pursuant to subsection 2 of this section shall, for each calendar quarter, on or
39 before the last day of the month following the close of such calendar quarter,
40 remit the taxes withheld in such form or return as prescribed by the director of
41 revenue and pay over to the director of revenue or to a depository designated by
42 the director of revenue the taxes so required to be deducted and withheld.

43 4. Any person, venue, or entity subject to this section shall be considered
44 an employer for purposes of section 143.191, and shall be subject to all penalties,
45 interest, and additions to tax provided in this chapter for failure to comply with
46 this section.

47 5. [Notwithstanding other provisions of this chapter to the contrary, the
48 commissioner of administration, for all taxable years beginning on or after
49 January 1, 1999, but none after December 31, 2015, shall annually estimate the
50 amount of state income tax revenues collected pursuant to this chapter which are
51 received from nonresident members of professional athletic teams and
52 nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal
53 year for a period of sixteen years, sixty percent of the annual estimate of taxes
54 generated from the nonresident entertainer and professional athletic team income
55 tax shall be allocated annually to the Missouri arts council trust fund, and shall
56 be transferred from the general revenue fund to the Missouri arts council trust
57 fund established in section 185.100 and any amount transferred shall be in
58 addition to such agency's budget base for each fiscal year. The director shall by
59 rule establish the method of determining the portion of personal service income
60 of such persons that is allocable to Missouri.

61 6. Notwithstanding the provisions of sections 186.050 to 186.067 to the
62 contrary, the commissioner of administration, for all taxable years beginning on
63 or after January 1, 1999, but for none after December 31, 2015, shall estimate
64 annually the amount of state income tax revenues collected pursuant to this
65 chapter which are received from nonresident members of professional athletic
66 teams and nonresident entertainers. For fiscal year 2000, and for each
67 subsequent fiscal year for a period of sixteen years, ten percent of the annual
68 estimate of taxes generated from the nonresident entertainer and professional

69 athletic team income tax shall be allocated annually to the Missouri humanities
70 council trust fund, and shall be transferred from the general revenue fund to the
71 Missouri humanities council trust fund established in section 186.055 and any
72 amount transferred shall be in addition to such agency's budget base for each
73 fiscal year.

74 7. Notwithstanding other provisions of section 182.812 to the contrary, the
75 commissioner of administration, for all taxable years beginning on or after
76 January 1, 1999, but for none after December 31, 2015, shall estimate annually
77 the amount of state income tax revenues collected pursuant to this chapter which
78 are received from nonresident members of professional athletic teams and
79 nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal
80 year for a period of sixteen years, ten percent of the annual estimate of taxes
81 generated from the nonresident entertainer and professional athletic team income
82 tax shall be allocated annually to the Missouri state library networking fund, and
83 shall be transferred from the general revenue fund to the secretary of state for
84 distribution to public libraries for acquisition of library materials as established
85 in section 182.812 and any amount transferred shall be in addition to such
86 agency's budget base for each fiscal year.

87 8. Notwithstanding other provisions of section 185.200 to the contrary, the
88 commissioner of administration, for all taxable years beginning on or after
89 January 1, 1999, but for none after December 31, 2015, shall estimate annually
90 the amount of state income tax revenues collected pursuant to this chapter which
91 are received from nonresident members of professional athletic teams and
92 nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal
93 year for a period of sixteen years, ten percent of the annual estimate of taxes
94 generated from the nonresident entertainer and professional athletic team income
95 tax shall be allocated annually to the Missouri public television broadcasting
96 corporation special fund, and shall be transferred from the general revenue fund
97 to the Missouri public television broadcasting corporation special fund, and any
98 amount transferred shall be in addition to such agency's budget base for each
99 fiscal year; provided, however, that] **(1) Notwithstanding any other**
100 **provision of this chapter, section 182.812, section 185.200, sections**
101 **186.050 to 186.067, or section 253.402 to the contrary, for all taxable**
102 **years ending on or before December 31, 2011, the commissioner of**
103 **administration shall annually estimate the amount of state income tax**
104 **revenues collected under this chapter which are received from**

105 **nonresident members of professional athletic teams and nonresident**
106 **entertainers. For each fiscal year ending on or before June 30, 2012,**
107 **the annual estimate of taxes generated from the nonresident**
108 **entertainer and professional athletic team income tax shall be allocated**
109 **annually in the following percentages:**

110 **(a) To the Missouri arts council trust fund established in section**
111 **185.100, sixty percent;**

112 **(b) To the Missouri humanities council trust fund established in**
113 **section 186.055, ten percent;**

114 **(c) To the Missouri state library networking fund for the**
115 **secretary of state to distribute to public libraries for acquisition of**
116 **library materials as established in section 182.812, ten percent;**

117 **(d) To the Missouri public television broadcasting corporation**
118 **special fund, ten percent;**

119 **(e) To the Missouri department of natural resources Missouri**
120 **historic preservation revolving fund established in section 253.402, ten**
121 **percent.**

122 **(2) The percentages listed in subdivision (1) of this subsection**
123 **shall be transferred from the general revenue fund to each fund listed**
124 **in subdivision (1) of this subsection, and any amount transferred shall**
125 **be in addition to each agency's budget base for each fiscal year. For**
126 **the amounts allocated to the Missouri public television broadcasting**
127 **corporation, twenty-five percent of such allocation shall be used for grants to**
128 **public radio stations which were qualified by the corporation for public**
129 **broadcasting as of November 1, 1996. Such grants shall be distributed to each**
130 **of such public radio stations in this state after receipt of the station's certification**
131 **of operating and programming expenses for the prior fiscal year. Certification**
132 **shall consist of the most recent fiscal year financial statement submitted by a**
133 **station to the corporation for public broadcasting. The grants shall be divided**
134 **into two categories, an annual basic service grant and an operating grant. The**
135 **basic service grant shall be equal to thirty-five percent of the total amount and**
136 **shall be divided equally among the public radio stations receiving grants. The**
137 **remaining amount shall be distributed as an operating grant to the stations on**
138 **the basis of the proportion that the total operating expenses of the individual**
139 **station in the prior fiscal year bears to the aggregate total of operating expenses**
140 **for the same fiscal year for all Missouri public radio stations which are receiving**

141 grants.

142 **6. (1) Notwithstanding any other provision of this chapter,**
143 **section 182.812, section 185.200, sections 186.050 to 186.067, or section**
144 **253.402 to the contrary, for all taxable years beginning on or after**
145 **January 1, 2012, the commissioner of administration shall annually**
146 **estimate the amount of state income tax revenues collected under this**
147 **chapter which are received from nonresident members of professional**
148 **athletic teams and nonresident entertainers. For each fiscal year**
149 **beginning on or after July 1, 2012, the annual estimate of taxes**
150 **generated from the nonresident entertainer and professional athletic**
151 **team income tax shall be allocated annually in the following**
152 **percentages:**

153 **(a) To the regional convention and visitors commission**
154 **established under sections 67.601 to 67.626, twenty-five percent;**

155 **(b) To the convention and sports complex fund established in**
156 **sections 67.638 to 67.645, twenty-five percent;**

157 **(c) To historically black colleges and universities (HBCU), to be**
158 **allocated based on the student enrollment in each university and to be**
159 **used solely for youth sport safety in each university's athletic facility,**
160 **including physical safety and therapy, five percent;**

161 **(d) To the Missouri arts council trust fund established in section**
162 **185.100, thirty percent;**

163 **(e) To the Missouri humanities council trust fund established in**
164 **section 186.055, five percent;**

165 **(f) To the Missouri state library networking fund for the**
166 **secretary of state to distribute to public libraries for acquisition of**
167 **library materials as established in section 182.812, five percent.**

168 **(2) The percentages listed in subdivision (1) of this subsection**
169 **shall be transferred from the general revenue fund to each fund and**
170 **university listed in subdivision (1) of this subsection, and any amount**
171 **transferred shall be in addition to each agency's budget base for each**
172 **fiscal year.**

173 **7. The director shall by rule establish the method of determining**
174 **the portion of personal service income of such persons that is allocable**
175 **to Missouri.**

176 **8. This section shall not be construed to apply to any person who**
177 **makes a presentation for professional or technical educational**

178 **purposes or to apply to any presentation that is part of a seminar,**
179 **conference, convention, school, or similar program format designed to**
180 **provide professional or technical education.**

181 [9. Notwithstanding other provisions of section 253.402 to the contrary,
182 the commissioner of administration, for all taxable years beginning on or after
183 January 1, 1999, but for none after December 31, 2015, shall estimate annually
184 the amount of state income tax revenues collected pursuant to this chapter which
185 are received from nonresident members of professional athletic teams and
186 nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal
187 year for a period of sixteen years, ten percent of the annual estimate of taxes
188 generated from the nonresident entertainer and professional athletic team income
189 tax shall be allocated annually to the Missouri department of natural resources
190 Missouri historic preservation revolving fund, and shall be transferred from the
191 general revenue fund to the Missouri department of natural resources Missouri
192 historic preservation revolving fund established in section 253.402 and any
193 amount transferred shall be in addition to such agency's budget base for each
194 fiscal year. As authorized pursuant to subsection 2 of section 30.953, it is the
195 intention and desire of the general assembly that the state treasurer convey, to
196 the Missouri investment trust on January 1, 1999, up to one hundred percent of
197 the balances of the Missouri arts council trust fund established pursuant to
198 section 185.100 and the Missouri humanities council trust fund established
199 pursuant to section 186.055. The funds shall be reconveyed to the state treasurer
200 by the investment trust as follows: the Missouri arts council trust fund, no
201 earlier than January 2, 2009; and the Missouri humanities council trust fund, no
202 earlier than January 2, 2009.]

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